

Our File: MM-49051

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WILLIAM CHERNE,)	
Plaintiff,)	
)	No: 08 CV 2987
)	
v.)	Judge Andersen
)	
JET EXPRESS, INC., T&B TRUCKING, L.L.C.,)	Magistrate Judge Nolan
and CRAIG W. WHEELER,)	
Defendants.)	Jury Demand
)	

ANSWER TO COMPLAINT AT LAW OF PLAINTIFF, WILLIAM CHERNE

NOW COME the Defendants, JET EXPRESS, INC. ("JET"), T&B TRUCKING, L.L.C. ("T & B") and CRAIG W. WHEELER ("Wheeler"), by and through their attorneys, MICHAEL J. MULLEN, KRALOVEC & MARQUARD, CHARTERED, and for their Answer to the Complaint at Law of Plaintiff, William Cherne, state as follows:

1. On the 31st day of July 2006, State Route 17 was a public highway running in a general East and West direction and East Road was likewise a public highway running in a general North and South direction in or near the City of Kankakee, State of Illinois, and said highways intersected each other.

ANSWER: The Defendants admit the allegations contained in paragraph 1.

2. At the time and place aforesaid, State Route 17 was a two lane highway located in a generally rural area east of Kankakee, Illinois

ANSWER: The Defendants admit the allegations contained in paragraph 2.

3. At the time and place aforesaid, the Plaintiff, CHERNE, was driving a tractor-trailer rig for his employer, Cassens Transport Co., in a general westbound direction on Route 17 near the intersection with East Road.

ANSWER: The Defendants admit Plaintiff was driving westbound on Route 17 near its intersection with East Road but the Defendants have no information regarding the other allegations in Paragraph 3 and therefore demand strict proof thereof.

4. At the time and place aforesaid, Defendant, WHEELER, was acting as a driver employee, agent, and/or servant of JET and/or T&B and was driving in the State of Illinois at the direction of JET and T&B.

ANSWER: The Defendants admit the allegations contained in paragraph 4.

5. That at all times relevant, WHEELER, was driving a truck owned and operated by JET and/or T&B.

ANSWER: The Defendants admit the allegations contained in paragraph 5.

6. That all times relevant all of the defendants were residents of the State of Ohio in this JET, ATKINSON and T&B were incorporated in Ohio and Wheeler was a resident of Ohio.

ANSWER: Defendants admit that at all times relevant they were residents of the state of Ohio and that Defendants JET and T & B were incorporated in Ohio and that Defendant Wheeler was a resident of Ohio.

7. At the time and place aforesaid the Defendant, WHEELER, operated, maintained, managed, and/or controlled a truck owned by JET and/or T&B in a general eastbound direction on State Route 17 and was driving a tractor-trailer rig in an eastbound direction in the westbound lanes of State Route 17.

ANSWER: Defendants deny the allegations contained in paragraph 7.

8. At the time and place aforesaid, the Defendant, WHEELER, acting as an agent, driver, servant, and/or employee of JET and/or T&B had a duty to exercise due care in the operation of his employer's truck to avoid colliding into and injuring others.

ANSWER: The Defendants admit that Wheeler was acting as agent, driver, servant, and/or employee of Jet Express, Inc. and/or T&B, but as the duties of Defendant Wheeler in those capacities arise out of the laws of the State of Illinois and not the pleadings of the Plaintiff, the Defendants deny the remaining allegations contained in paragraph 8.

9. That at the time and place stated, the defendant, WHEELER, while driving east on State Route 17, struck the front of the vehicle driven by CHERNE at a high rate of speed while going east in the westbound lane.

ANSWER: The Defendants deny the allegations contained in paragraph 9.

10. At the time and place aforesaid the Defendant, JET and/or T&B and WHEELER, acting through their agents, servants, and/or employees, and WHEELER, individually, and as an agent, servant, and/or employee of JET and/or T&B, were then and there guilty of one or more of the following acts

- a. Carelessly and negligent operated, maintained, managed, and/or controlled the truck so that as a direct and proximate result thereof, the plaintiff was injured;
- b. Carelessly and negligent operated a truck without keeping a proper and sufficient lookout;
- c. Carelessly and negligently operated a truck at a rate of speed that was greater than reasonable and proper with regard to traffic conditions, weather, road conditions and the use of the highway in violation of 625 ILCS 5/11-601;
- d. Carelessly and negligent failed to have brakes adequate to control the movement of and to stop and hold such vehicle so as to avoid the collision, in violation of 625 ILCS 5/12-301;
- e. Carelessly and negligently failed to steer his vehicle to avoid a collision;
- f. Carelessly and negligently failed to apply his brakes to avoid a collision;
- g. Carelessly and negligently failed to sound his horn to warn Plaintiff that he was about to change lanes, in violation of 625 ILCS 5/12-601;
- h. Carelessly and negligently drove his vehicle on the left hand side of a two way roadway in violation of 625 ILCS 5/11-701(a);
- i. Carelessly and negligently drove his vehicle on the left hand side of the roadway in violation of 625 ILCS 5/11-701(b);
- j. Carelessly and negligently changed lanes in violation of 625 ILCS 5/11-709(a);
- k. Carelessly and negligently drove a vehicle with faulty steering mechanisms.
- l. Carelessly and negligently fell asleep at the wheel and lost control of his vehicle.
- m. Carelessly and negligently failed to use all practical means to avoid a collision.

ANSWER: The Defendants deny the allegations contained in paragraph 10, including subparagraphs (a) through (m), and each of them, inclusive.

11. As a direct and proximate result of one or more of the aforesaid wrongful acts of the Defendants, JET and/or T&B, acting through their agents, servants, and/or employees, and WHEELER, individually, and as an agent, servant, and/or employee of JET and/or T&B, the Plaintiff, WILLIAM CHERNE, was injured, both internally and externally, and sustained severe and permanent injuries, especially to his neck and left shoulder, and has, and will be, hindered and prevented from attending to his normal duties and affairs of life, and has lost, and will lose, great sums of lost wages. Further, Plaintiff suffered great pain and suffering, both in mind and body, and will in the future, continue to suffer. Plaintiff further expended and became liable for, and will become liable for, large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

ANSWER: The Defendants deny the allegations contained in paragraph 11.

Defendants, JET EXPRESS, INC., T&B TRUCKING, L.L.C. and CRAIG W. WHEELER, demand trial by jury.

WHEREFORE, the Defendants, JET EXPRESS, INC., T&B TRUCKING, L.L.C. and CRAIG W. WHEELER, pray for judgment against the Plaintiff, William Cherne, and for costs.

KRALOVEC & MARQUARD, CHARTERED

S/MICHAEL J. MULLEN

Michael J. Mullen

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CERTIFICATE OF SERVICE

I, Michael J. Mullen, an attorney, hereby certify that I have caused a true and correct copy of the above and foregoing Answer to Complaint at Law of Plaintiff to be sent via electronic filing delivery and via U.S. mail this 29th day of May, 2008 to:

Mr. Patrick E. Dwyer
Dwyer, McCarthy & Associates, Ltd.
39 South LaSalle Street
Suite 610
Chicago, Illinois 60603

s/Michael J. Mullen
Michael J. Mullen

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and CRAIG W. WHEELER,)	
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)	

NOTICE OF FILING

TO: Mr. Patrick E. Dwyer
Dwyer, McCarthy & Associates, Ltd.
39 South LaSalle Street
Suite 610
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on May 29, 2008 we E-filed with the Clerk of the United States District Court for the Northern District of Illinois, Defendants, JET Express, Inc., T&B Trucking, LLC and Craig W. Wheeler's Answer to Complaint at Law of Plaintiff, William Cherne. A copy of which is attached hereto and served upon you.

KRALOVEC & MARQUARD, CHARTERED

S/MICHAEL J. MULLEN

Michael J. Mullen

KRALOVEC & MARQUARD, CHARTERED

55 West Monroe Street

Suite 1000

Chicago, Illinois 60603

(312) 346-6027

CERTIFICATE OF SERVICE

I, Michael J. Mullen, an attorney, hereby certify that I have caused a true and correct copy of the above and foregoing Notice of Filing to be sent via electronic filing delivery and via U.S. mail this 29th day of May, 2008 to:

Mr. Patrick E. Dwyer
Dwyer, McCarthy & Associates, Ltd.
39 South LaSalle Street
Suite 610
Chicago, Illinois 60603

s/Michael J. Mullen
Michael J. Mullen